

CALIFORNIA DEPARTMENT OF CHILD SUPPORT SERVICES

P.O. Box 419064, Rancho Cordova, CA 95741-9064



June 4, 2002

CSSIN LETTER: 02-12

ALL IV-D DIRECTORS
ALL DISTRICT ATTORNEYS
ALL COUNTY ADMINISTRATIVE OFFICERS
ALL BOARDS OF SUPERVISORS

SUBJECT: FRANCHISE TAX BOARD TAX INTERCEPT OF NON IV-D CASES

On December 31, 2000, section 708.730, subsection (d), of the Code of Civil Procedure became inoperative. As a result, local child support agencies no longer have a mandate or the authority to continue to certify non IV-D cases. Additionally, the Franchise Tax Board no longer has a mandate or the authority to continue to take collection actions through intercepts as specified in that statute.

I have enclosed a copy of the statute for your review. If you have not already done so, please immediately discontinue processing non IV-D requests for tax intercept.

If you have any questions or concerns regarding this matter, please contact Melanie Henderson at (916) 464-5519.

Sincerely,

JOAN OBERT
Assistant Deputy Director

Enclosure

cc: Lori Castille, Franchise Tax Board

DCSS-SY-2002-CTY-0326

Reason for this Transmittal

☐ State Law or Regulation Change
☐ Federal Law or Regulation Change
☐ Court Order or Settlement Change
☐ Clarification requested by One or More Counties
☒ Initiated by DCSS



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www.childsup.cahwnet.gov

CODE OF CIVIL PROCEDURE

SECTION 708.730

708.730. (a) If money is owing and unpaid to the judgment debtor by a public entity, the judgment creditor may file, in the manner provided in this article, an abstract of the money judgment or a certified copy of the money judgment, together with an affidavit that states that the judgment creditor desires the relief provided by this article and states the exact amount then required to satisfy the judgment. The judgment creditor may state in the affidavit any fact tending to establish the identity of the judgment debtor.

(b) Promptly after filing the abstract or certified copy of the judgment and the affidavit with the public entity, the judgment creditor shall serve notice of the filing on the judgment debtor. Service shall be made personally or by mail.

(c) If the judgment is for support and related costs and money is owing and unpaid to the judgment debtor by a state agency, including, but not limited to, money owing and unpaid to the judgment debtor by a state agency on a claim for refund from the Franchise Tax Board under the Personal Income Tax Law, Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code, or the Bank and Corporation Tax Law, Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code or as a result of the judgment debtor's winnings in the California State Lottery, and the local child support agency is enforcing the support obligation pursuant to Section 17400 of the Family Code, the claim may be submitted as follows: The local child support agency may file the affidavit referred to in subdivision (a) without filing an abstract or certified copy of the judgment. In lieu thereof, the affidavit shall also state that an abstract of the judgment could be obtained. Where there is more than one judgment debtor, the local child support agency may include all the judgment debtors in a single affidavit. Separate affidavits need not be submitted for each judgment debtor. The affidavit need not on its face separately identify each judgment debtor or the exact amount required to satisfy the judgment, so long as it incorporates by reference forms or other automated data transmittals, as required by the Department of Child Support Services, which contain this information. Affidavits submitted pursuant to this subdivision by the local child support agency shall meet the standards and procedures prescribed by the state agency to which the affidavit is submitted, except that those affidavits submitted with respect to moneys owed and unpaid to the judgment debtor as a result of a claim for refund from the Franchise Tax Board under the Personal Income Tax Law, Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code, or

the Bank and Corporation Tax Law, Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code, shall meet the standards and procedures prescribed by the Franchise Tax Board.

In serving the notice required by subdivision (b), the Director of the Department of Child Support Services or his or her designee may act in lieu of the judgment creditor as to judgments enforced under this division.

(d) If the judgment is for child, spousal, or family support and related costs and money is owing and unpaid to the judgment debtor by a state agency on a claim for refund from the Franchise Tax Board under the Personal Income Tax Law, Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code, or the Bank and Corporation Tax Law, Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code, or as a result of the judgment debtor's winnings in the California State Lottery, the judgment creditor may file with the court an abstract or a certified copy of the judgment ordering the payment of child, spousal, or family support, together with a request that the court issue a Notice of Support Arrearage, as provided in Section 708.780, to which any personal income tax refunds and lottery winnings owed the judgment debtor by the State of California will be subject. The request shall be accompanied by an affidavit, signed under penalty of perjury, which shall state that the judgment creditor desires the relief provided by this subdivision and shall state the exact amount then required to satisfy the judgment. In addition, the affidavit shall specify the beginning and ending dates of all periods during which the arrearage for support occurred, specify the arrearage for each month, and state that the support is at least 90 days overdue or is overdue in an amount equal to 90 days of support. It shall also certify that the child or children are not recipients, and during the period for which payment is requested, were not recipients, of Aid to Families with Dependent Children and there was no assignment to a state or county agency of support and shall certify on information and belief that there is not current or past action by a district attorney pending for support or support enforcement on the judgment creditor's behalf.

The request shall have attached a proof of service showing that copies of the request, the affidavit, and the abstract or certified copy of the judgment ordering the payment of support have been served on the judgment debtor and the district attorney of the county in which the support judgment is entered. Service shall be by certified mail, postage prepaid, return receipt requested, to the last known address of the party to be served, or by personal service.

This subdivision does not apply in any instance in which a district attorney initiated or participated as counsel in the action for support or if support is required to be paid through a district

attorney's office.

The Department of Child Support Services shall, upon request, inform the Legislature of the use and effect of this subdivision on or before December 31, 2000.

This subdivision shall become operative on January 1, 1996, and shall become inoperative on December 31, 2000.

(e) For purposes of this section, "support" means an obligation owing on behalf of a child, spouse, or family, or combination thereof.